

REMARKS

No claims are amended. Claims 1-57 are now pending in the application.

Each issue raised in the Office Action mailed October 30, 2007 will now be addressed, in the order of appearance.

Claims 1-7, 9-11, 13-20, 22-28, 30-32, 34-39, 42-44, 46-52 and 54-56 are rejected under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Patent No. 7,092,354 B2 to Jensen ("Jensen"). The rejection is respectfully traversed.

First, Applicant continues to assert all arguments from the earlier Response to Office Action filed August 13, 2007.

Next, regarding the Response to Applicant's Arguments (Office Action, Page 6, Section 6), the first paragraph states that Applicant argues Jensen only disclose a single switch and thus cannot anticipate the claimed first and second switches. Jensen discloses at least at column 3, lines 9-15 the number of nodes may vary, thus multiple switches may be employed. Applicant responds that the above statement is an oversimplification of Applicant's arguments. Also, just because a number of nodes may vary, that does not necessarily lead to multiple switches being disclosed. Furthermore, supposing for the sake of argument that Applicant agrees that Jensen's nodes correspond with the claimed network element, the above argument would still not address the issue that Applicant is not merely claiming multiple network elements, but instead multiple switches per network element. Anticipation under 35 U.S.C. §102 is established only when a single prior art reference discloses, expressly or under principles of inherency, each and every element of a claimed invention. *RCA Corp. v. Applied Digital Data Systems, Inc.*, 730 F.2d 1440, 1444, 221 U.S.P.Q. (BNA) 385, 388 (Fed. Cir). For at least the above reasons, the rejection of Claims 1, 22, 34, and 46, as well as all claims dependent therefrom, is unsupported and should be withdrawn.

The second paragraph of the Response to Applicant's Arguments states that Applicant argues Jensen's switch does not have the ability to change one or more connections from any identified network elements. Jensen, discloses, at least a column 5, lines 23-27, any device may

employ the mirroring module, and thus the switch is disclosed as having the ability to change connections. Applicant responds that when Jensen's standby router 108 takes over for the active router 106, a mirroring module contained within the standby router 108 updates its own routing information to match that of the router 106 (Jensen, col. 6, lines 14-22). The mirroring module thus only updates routing information, but does not change any connections of any kind. Thus, Jensen does not disclose each and every element of the claimed invention, so that the requirements for anticipation under 35 U.S.C. §102 have not been met. For at least the above reasons, the rejection of Claims 1, 22, 34, and 46, as well as all claims dependent therefrom, is unsupported and should be withdrawn.

The third paragraph of the Response to Applicant's Arguments states that Applicant argues Jensen does not disclose receiving user input in any context. Jensen discloses receiving user input at least at column 3, lines 54-53. Applicant responds that Claim 13 recites, *inter alia*, receiving first user input in a graphical user interface that associates the network elements in a cluster with a first switch and a second switch, and then receiving second user input that specifies which network elements are reserved in the pool of available network elements. Meanwhile, the section of Jensen cited by the Examiner states only that an operator interface 206 may interface with a system operator by accepting commands and providing status information. Jensen's operator interface 206 is not described as associating network elements into a cluster with a first switch and a second switch, as claimed. Thus, Jensen does not disclose each and every element of the claimed invention, so that the requirements for anticipation under 35 U.S.C. § 102 have not been met. For at least the above reasons, the rejection of Claim 13, as well as all claims dependent therefrom, is invalid and should be withdrawn.

All remaining Claims were rejected under 35 U.S.C. § 103 as allegedly obvious over a variety of references using Jensen as a base reference. However, all of these Claims either explicitly recite or depend from other Claims which recite elements or steps which as shown above are neither disclosed nor suggested by any combination of prior art, either by Jensen or by any other reference. The secondary references do not cure this deficiency of Jensen, and

therefore any combination of Jensen with any of the secondary references cannot provide the complete combination of features recited in the remaining claims.

A petition for extension of time, to the extent necessary to make this reply timely filed, is hereby made. If any applicable fee is missing or insufficient, throughout the pendency of this application, the Commissioner is hereby authorized to any applicable fees and to credit any overpayments to our Deposit Account No. 50-1302.

Respectfully submitted,

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